



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

STANDING COMMITTEE ON LEGAL AFFAIRS

(Reference: [Inquiry into Annual and Financial Reports 2023-24](#))

Members:

MR P CAIN (Chair)
MR T WERNER-GIBBINGS (Deputy Chair)
MR S RATTENBURY

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

MONDAY, 10 FEBRUARY 2025

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Secretary to the committee:
Ms K de Kleuver (Ph: 6207 0524)

By authority of the Legislative Assembly for the Australian Capital Territory

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APPEARANCES

ACT Official Visitors	1
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Amended 20 May 2013

The committee met at 9.40 am.

Appearances

ACT Official Visitors

Muir, Mr Peter James, Board Chair

Doube, Ms Clare, Board Member and Official Visitor Corrections

THE CHAIR: Good morning and welcome to this public hearing of the Standing Committee on Legal Affairs which is inquiring into annual and financial reports 2023-24. Today, the committee will examine ACT Official Visitors.

The committee wishes to acknowledge the traditional custodians of the lands we are meeting on, the Ngunnawal people. We wish to acknowledge and respect their continuing culture and the contribution they make to the life of the city and this region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today's event or are watching.

Proceedings today are being recorded and transcribed by Hansard and will be published. They are also being broadcast and web-streamed live. When taking a question on notice, it would be useful if witnesses used these words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice on the transcript.

Today, we welcome witnesses from ACT Official Visitors. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Please confirm that you each understand the implications of the privilege statement and that you agree to comply with it.

Ms Doube: Yes.

Mr Muir: Yes; I agree and understand and will comply with the privilege statement.

THE CHAIR: Thank you very much. As we are not inviting opening statements, we will proceed to questions. I note that we have with the committee visiting members, Ms Morris and Mr Emerson. I will pass my opportunity for a question to Ms Morris.

MS MORRIS: Thank you very much, Chair. Thank you for your time this morning and for the work that you guys do. I will kick off by asking some questions about recidivism in the ACT, which the annual report acknowledges is very high. It also indicates that recidivism is linked in some part to systemic issues within the ACT. Is that correct?

Ms Doube: I would say so—yes.

MS MORRIS: Could you please elaborate on the link that you believe exists between the high rate of recidivism in the ACT and systemic issues within the AMC.

Ms Doube: Absolutely. Recidivism is, of course, a complex issue.

MS MORRIS: The report acknowledges that there are other factors at play.

Ms Doube: Absolutely. If I am looking just within the AMC and at some of those links, there is a lot of research that says how important it is that detainees are, to put it simply, busy—that there is a range of activities and programs that provide a meaningful array of things for people to do. While there certainly are activities, programs and some access to education, I would like to see a far greater range so that more people are able to be fully engaged during their time at AMC. That would be certainly one element that links to the transition out. Some of the underlying causes may have been dealt with around addiction and so on, but there is also a pathway out for people when they are released.

There are also issues that I would like to see looked at a little deeper around some of the healthcare elements and making sure that there is appropriate medication in place or a plan in place for that healthcare transition out. So there is a range of things, as well as underlying causes on the outside.

MS MORRIS: Do you think that the issues that you have just outlined are directly related to the ACT's high recidivism rate?

Ms Doube: I think so. There is a lot of research that says that a really important aspect for rehabilitation is to have people, while they're inside, engaged in activities that are meaningful for them and increase self-esteem but also build the practical skills that are needed on the outside.

MS MORRIS: Have you seen any progress being made on any of these issues?

Ms Doube: Certainly. There are all sorts of initiatives in place. I will touch on one that is around increasing the kinds of programs that are available to those on remand, for instance. That is one example of that. There are certainly initiatives in place that try to support this. I acknowledge the complexity of this. Movements within prison can be very difficult. To bring people together for programs or activities, there is that complexity. To answer your question, I see progress, but I think a lot more can be done.

MS MORRIS: You have seen progress in some areas. Have you seen deterioration in some areas as well?

Ms Doube: I would not say there has been deterioration. I think there are opportunities to explore a variety of other options, whether they are things within a yard to deal with the complexity of movement within a prison environment or things that are detainee-led. We see incredible skills at AMC. It would be lovely to see some more detainee-led activities. There are also officers who have incredible skills. I would say there are opportunities for more.

Mr Muir: Could I add one thing very quickly to that answer?

THE CHAIR: Sure.

Mr Muir: I would just caution that what we do not know is whether the ACT's recidivism rate is higher than anywhere else. We actually do not have data on that. We have great and experienced visitors, but we actually do not have hard data. Across Australia, rates from correctional facilities of recidivism are universally fairly high. I just add a note of caution around that.

MR EMERSON: How would you define recidivism? You say that we do not have that data. The Productivity Commission releases data on re-offending in different categories: how many people return to corrective services within two years and how many people return to prison within two years. There has been some confusion about how to best define recidivism.

Mr Muir: I have been sitting in these debates for around 40 years in my career. The measures that you talk about have come out of—sorry; I am a few years out now—COAG agreements. I think they are the best measures because they look at some of the nuances of re-offending. For example, some re-offences can be things like breaches or are fairly minor. Those measures do not measure things like decreases in severity or frequency of offending. The measures that have been agreed are fairly robust and give a reasonable indicator of people's progress.

MR WERNER-GIBBINGS: Could you point to examples of best-practice jurisdictions or systems that offer more effective rehabilitation, or where there is work to be done, where the ACT could look at taking a lead?

Ms Doube: I would not be in a position to answer that. My role looks specifically at the AMC and what I see occurring there. I certainly read research from elsewhere. We have some incredible expertise here at the ANU. For instance, the criminology department has produced a lot of research, looking comparatively. But my role is to look specifically at the AMC. I would be able to answer your questions about that.

MR WERNER-GIBBINGS: I understand improvements in the women's area of the AMC have been made to increase available activities. Have they had an impact on the level of complaints to Official Visitors or any impact that is noticeable in your experience?

Ms Doube: We have certainly had some really positive feedback from women who appreciate some of the activities. There were requests for yoga to continue, for instance, but also some of the practical life skills around cooking classes and so on. There is certainly some positive feedback. Also, in the last period, there have been some challenges for women in protection to be able to access those activities at the same rate as those in the mainstream, because of the challenges of mixing two cohorts. One of the complexities at AMC is that there are so many different cohorts within the one location, so being able to bring people together can be complex. There have been some efforts made to improve that more recently so that there is more equitable access for the women.

MR RATTENBURY: The Integrity Commission recently released its report on Operation Falcon, which concerns the falsification of medical observation records at the Alexander Maconochie Centre. My understanding is that the events in this inquiry began with the involvement of an official visitor, at the request of an affected detainee.

Have you had any other complaints or concerns that observations of inmates have not been undertaken as specified?

Ms Doube: I personally have not had those, but I am only one of three official visitors. I would need to check with my colleagues, so I will take that on notice.

MR RATTENBURY: Thank you. In light of the report by the Integrity Commission, do you think it addressed the issues that were of concern that were originally raised by Official Visitors? Do you think it explored the issues and covered the key concerns, from your perspective?

Ms Doube: It certainly covers the concerns around the falsification of the records and what occurred as a result of that. For me, it was a concerning example of the lack of accountability at the time. I would hope that it has been dealt with. We have no evidence, as such, of whether that is embedded in changes within the AMC. That is probably the element that I will be keeping an eye on.

MR RATTENBURY: That goes to my next question. Do you think there has been a change in the culture and approach since? The incident is a couple of years old. Obviously there has been an intervening period. Do you think that has changed or are you saying you are still monitoring?

Ms Doube: It is absolutely something I am still monitoring. Issues around culture are sometimes really difficult to fully put your finger on. We see examples of some incredible staff members who are respectful, compassionate and go out of their way to engage with detainees in a really respectful and lovely way. Unfortunately, I also hear reports of officers who speak in a demeaning or disrespectful way. There is certainly still work to be done on culture. I would say that is an ongoing piece of work that will need to be on our agenda for some time.

MR RATTENBURY: I noticed that, on page 14 of the annual report, under the heading “Staff culture”, you make the observation around some really respectful and empathetic officers but say there are “too many reports of staff acting in ways that are disrespectful, dehumanising and appear to be about wielding power”. You provide a number of uncomfortable examples in the report and then you note that these issues have been raised with corrections. What has been the response to those reports of issues raised by Official Visitors?

Ms Doube: The way that we raise things depends a little bit on the circumstances. A common way is to raise things in the yard with officers who are in the vicinity. But, when it is something like this, which is more concerning, we will also raise it with more senior management staff. There is also an integrity unit within the AMC that deals with examples like this: alleged misconduct or disrespectful behaviour. I also share information with the integrity unit, which investigates those circumstances. I should say that, when I have raised these sorts of things with management—the more senior staff—they have been concerned and keen to look into it. One of the challenges I find is that so often officers are not wearing name badges, so, when something is raised with me by a detainee, it is often very difficult to identify who they are talking about. I would love to see every officer always wearing a name tag so that it is much easier to identify who is being talked about.

MR RATTENBURY: Are they supposed to wear a name tag?

Ms Doube: Yes.

MR RATTENBURY: It is regularly not happening?

Ms Doube: Some are, but it is not always the case.

MS MORRIS: I have a couple more questions on recidivism and then I would like to move to another issue, if that is all right. Do I have time for that, Chair?

THE CHAIR: No. You have just one question and a couple of supps.

MS MORRIS: In that case, I will turn to some pretty disturbing stories that were outlined in the annual report. One of them is that a detainee was confined to bed and his wound dressings were not changed for more than a week. Another case that you have is that birds were nesting and defecating above cooking facilities. You have also mentioned that these are issues that have been raised for many years, but, obviously, nothing had been done about them. Are stories like this common in the AMC? And, in your observation, what does this say about human rights compliance of the prison?

Ms Doube: In terms of those two particular examples, the situation of a detainee whose wounds were not dressed regularly enough was an outlying example. I do not know of other examples like that, so I would not say that is common. In terms of the example of the birds nesting above the cooking facilities, that is something that has been raised, both by Official Visitors and the Office of Inspector of Custodial Services. So it is on the record as being something of concern for a number of years.

MS MORRIS: And nothing has been done about it?

Ms Doube: There have been some efforts made—for instance, putting plastic strips over the doorways to try to reduce the number of birds coming in. So there have been some efforts made and that has reduced it somewhat, but there is still concern for me in terms of positioning—where the birds nest.

MS MORRIS: And there is the second part of that question, on human rights compliance.

Ms Doube: Human rights compliance is a really tricky one because there are so many different aspects of prison operation. Certainly, a lot of effort is made to ensure that the human rights of detainees are protected. There are elements within operations that I would say are not fully there. Again, it is a bit like the point on culture: it is an ongoing effort because there are so many different moving parts, and there may be compliance in some areas and more progress needed in others.

MS MORRIS: In the 2019 *Healthy Prison Review*, we saw not a very positive review of human rights compliance at the prison. Then the 2020 review said it had actually gone backwards. In looking at the examples that have been raised in the annual report, in conjunction with observations that medications have not been made available to

detainees, to me it sounds like there is not much compliance going on and human rights are not being honoured within the prison.

THE CHAIR: I will take that as a comment, Ms Morris. We need to move to Mr Emerson.

MR EMERSON: What proportion of inmates would you say spend significant portions of their time engaged in education and training programs and other meaningful activities that would be conducive to their reintegration into our community after their imprisonment?

Ms Doube: I would not have statistics on an exact percentage. I would say that there are activities, programs and things in place, but some of the challenges that I see include the number available compared to the number of detainees. There are access issues. There is also the fact that there is great variation. There are those who are in prison for relatively short sentences versus those who are in prison for, potentially, 13 years or so. What might happen over that period of time would be very different than for those on short sentences.

I do not have any statistics on that, I am afraid. But I would say that there are some things in place, but a huge amount more could be put in place, acknowledging the complexities of doing so and the resources of doing so. There are opportunities to do more that would have the potential to have an impact on individuals but also on the wider issues around recidivism and so on.

MR EMERSON: We have heard about high levels of boredom. This has been frequently raised as an issue, including in the last *Healthy Prison Review*. Do you see a correlation between high levels of boredom and high levels of drug use in the AMC?

Ms Doube: Yes; I do. I have had that expressed to me anecdotally—for instance, a detainee had been clean on the outside, returned to AMC and said, “Well, what else is there to do?” There is certainly a correlation. There are obviously many other factors around addiction and so on, but I do think there is a link.

MR EMERSON: While we are talking about what happens outside versus inside, would you describe the level of health care that is available in the AMC as equivalent to what is available outside to people in our community?

Ms Doube: No; overall, I would not. There are certainly some great efforts being made by people within the health team. There is an operational director who is doing a huge amount to try to make some improvements in terms of health care, but I do have some concerns. For instance, medications that are available outside of prison were outlined. For instance, medications for the treatment of ADHD are much more difficult to get within AMC. There are very limited criteria. Someone would need to be in formal education or employment et cetera and their ADHD would need to be a limiting factor before they might even be eligible for ADHD medication, whereas in the community it is recognised that it may be useful for someone’s everyday life. That would be just one example of where I would see things being not quite the equivalent to what is in the community.

MR EMERSON: Maybe there is some self-medication going on.

MS MORRIS: Off the back of Mr Emerson's questions and what is available out in the community, the report talks about housing being a big issue and contributing to recidivism as well. I hear anecdotally that some offenders who are struggling to reintegrate back into the community almost view the prison as, in an odd sense, home. It is a place where they have a roof over their head, they have a bed to sleep in, their mates are there and they have food on the table. Is that, in your observation, something that is true and in your experience something that is contributing to the culture of the prison and recidivism?

Ms Doube: There are certainly examples of individuals who find that is a welcome provision of housing, for want of a better term. For many, the lack of housing on the outside and the lack of transitional options is a big challenge, and therefore this is an alternative. I would not see it as much as "home", but the lack of housing options on the outside is certainly a big challenge.

MR WERNER-GIBBINGS: In the report, there is a lack of trust in the complaints system within AMC. Prisoners do not necessarily trust it. What steps are Official Visitors taking to liaise, engage and report on the actions the AMC is taking to improve its complaints system?

Ms Doube: In the last little while, some of the ways that we have observed the complaint system being strengthened—that is the AMC complaints system rather than complaints that come to us—

MR WERNER-GIBBINGS: Are you using the word "strengthened" or is the AMC telling you it is being strengthened?

Ms Doube: What I was about to say is that, in terms of the ways that I have seen, complaints go to the compliance team, for instance. That has more staff now than it did a year or 18 months ago, so there is greater capacity to be able to look into situations and report back. There have been some improvements. There has also been communication. There was a lack of clarity amongst both staff and detainees about where the complaint should go, whether it needs to be written, hard copy versus email, and so on. There has been some consistent communication around that to try to improve the clarity.

So there have been some improvements, but I would say again that more is needed. Many issues come to Official Visitors because we are told that it has been raised with someone and has not really got anywhere—they did not get a response and it came to us. There are things like a complaint form that was filled in but did not get to the compliance team. So there are still glitches in the system that mean that more things will come to us to check: what has happened along the way; what has caused that problem?

Mr Muir: Could I add something very quickly? The board has been concerned about the degree to which these issues consume complaints into the scheme. I have met with the acting commissioner a couple of times on this issue. We have raised this with the acting commissioner. We actually gave the acting commissioner a heads-up on where

we were heading with our annual report. As yet, we have not really received a response back on that. From a board level, we still think that more could be done on that.

MR RATTENBURY: On page 8 of the annual report, the board discusses the issue of deaths in disability care. You note that there is actually no ACT data being collected locally to measure differences over time. This is particularly in the context of you raising the policy issue of a deaths review panel. I want to start on just the data question. Are you aware that any jurisdiction is collecting that data?

Mr Muir: I have asked for a briefing on that issue. I think the short answer is no. Some of it sits within the NDIS Quality and Safeguards Commission. We do not have line of sight to what data comes out of that. The last briefing I had on the issue was that—and I am going from memory here—I think only Queensland used to have some sort of review function, but that may not be operating anymore.

MR RATTENBURY: In your mind, what is the consequence of not having access to that information?

Mr Muir: The risk in the ACT is not knowing what is happening inside of disability group homes. They are growing in number. We are up to around 330 disability group homes in the ACT. The NDIS is seeing a significant growth in them. We have heard reports. For example, one that I am aware of is someone having choked to death and not having their feeding plan followed. It is really a question of who is protecting the rights of people and who is reviewing what has gone wrong in these cases. Some of these deaths may be expected. They may be from natural causes. The answer is that we simply do not know.

THE CHAIR: I am sorry that we have come to the end. On behalf of the committee, I would like to thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of received the uncorrected proof *Hansard*. On behalf of the committee, I thank witnesses who have assisted the committee through their experience and knowledge. We also thank broadcasting and Hansard staff for their support. If a member wishes to ask questions on notice—I suspect that many have not been asked—please upload them to the parliamentary portal as soon as possible and no later than five business days from today.

The committee adjourned at 10.10 am